

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 183 – HB 177

March 20, 2013

**SUMMARY OF ORIGINAL BILL:** Authorizes the Commissioner of the Department of Revenue (DOR), upon request in writing, to disclose to local government officials the amount claimed by a taxpayer as a business tax credit for personal property taxes paid. Prohibits local government officials from disclosing such information to any person other than the person to whom it relates and except as otherwise authorized by law.

FISCAL IMPACT OF ORIGINAL BILL:

Other Fiscal Impact – Authorizing DOR to disclose information on the amount claimed by a taxpayer as a business tax credit for personal property taxes paid will assist local governments in collecting the proper local taxes and will result in an increase in local property tax collections. Due to multiple unknown factors, such increase cannot be quantified with reasonable certainty.

**SUMMARY OF AMENDMENT (005107):** Deletes all language after the enacting clause. Enacts the Uniformity and Small Business Relief Act of 2013, with the effective date of January 1, 2014. Authorizes the Commissioner of the Department of Revenue (DOR) to collect and administer the business tax and grants the Commissioner broad discretion to transition the administration of the tax from the local to the state level for the period between July 1, 2013, and December 1, 2014. Converts the existing county business tax to a state tax. Retains the authority of an incorporated municipality to impose the tax, and specifies that those already imposing such tax are not required to pass new ordinances to continue collecting the tax. Authorizes incorporated municipalities and counties, but not the state, to continue the existing business tax on flea markets, antique malls, gun shows, and transient vendors. Authorizes local governments to retain 100 percent of such taxes collected. Authorizes, but does not require, counties and incorporated municipalities to enter into an agreement under which DOR would administer the foreign contractor bond requirement. Decreases the business tax rate on gasoline and diesel fuel wholesalers from 0.000375 percent to 0.0003125 percent. Authorizes a deduction from the business tax base for sales of services that are received by customers located outside the state, instead of services substantially performed in other states. Increases, from \$3,000 to \$10,000, the minimum amount of sales required before a business is subject to the tax. Specifies that providers of video programming services and direct-to-home satellite television programming services will receive credit for local personal property taxes paid in the jurisdiction where the property is taxed. Authorizes the Commissioner to accept a single return for the reporting of all

business taxes due from a single business, regardless of jurisdiction. Codifies an existing regulation and adds language to the code to make clear when sales from business activities in the state are subject to the tax and which jurisdiction collects the tax. Requires a business that has more than one location within a jurisdiction to obtain a separate license and pay the \$15 fee for each location. Extends the expiration date of the business license to 30 days after the date the return is due, rather than at the end of the tax period. Requires incorporated municipalities and counties to issue a minimal activity license to any person who is exempt from business tax and has sales of more than \$3,000 but less than \$10,000 per year. Requires such businesses to pay a \$15 annual fee but relieves them from filing a business tax return or otherwise registering with the state in order to have a license that the business may need for its business purposes or other local purposes. Authorizes, but does not require, incorporated municipalities and counties to enter an agreement with DOR under which the state will issue and renew the standard business license. Allocates and distributes the state business tax using the same formula that applies to the current county business tax: \$7.00 per return to the county clerk; 5 percent of balance to county clerk; 43 percent of balance to the General Fund; 1.125 percent of balance to DOR; remaining balance to the county where the taxpayer is located. Allocates the state business tax to the General Fund if collected from a taxpayer doing business in the state without establishing a location. Allocates and distributes the city business tax as it is distributed under current statute: \$7.00 per return to the appropriate city official; 5 percent of the balance to the appropriate city official; 43 percent of balance to the General Fund; 1.125 percent of balance to DOR; remaining balance to the city that levied the tax.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Decrease State Revenue – \$59,200/FY13-14**

**Net Impact - \$190,300/FY14-15**

**\$182,300/FY15-16 and Subsequent Years**

**Increase Local Revenue – \$59,200/FY13-14**

**Decrease Local Revenue -- Net Impact – \$29,700/FY14-15**

**\$26,300/FY15-16 and Subsequent Years**

**According to the Department of Finance and Administration, the Division of Budget, the Governor's recommended budget for FY13-14 reflects a reduction of \$200,000 in state business tax collections.**

Assumptions for the bill as amended:

- The first-year impacted by the bill will be FY15-16 because of staggered tax years for business taxpayers. The tax year for Classification IV taxpayers is October 1 – September 30. As a result of this, and the bill's effective date of January 1, 2014, this bill will impact taxpayers in Classification IV beginning in FY15-16.
- Under current law, three counties (Hardin, Lauderdale, and McNairy) have rates lower than the state rate. In FY11-12, 1,628 returns were filed from businesses in these three

counties, with \$388,881 in taxes due, of which \$156,503 was the state portion and \$232,378 was the local portion.

- Under this bill, DOR estimates that 446 businesses will have gross sales less than \$10,000 and will be exempt from the business tax. DOR estimates that 1,182 businesses will have gross sales of at least \$10,000 and projects, using the state rates, the total tax due for these businesses to be \$926,700, of which \$380,772 will be the state portion and \$545,928 will be the local portion.
- The recurring increase in state revenue, beginning in FY15-16, as a result of the tax rate changes for the three counties is estimated to be \$224,269 (\$380,772 - \$156,503); the recurring increase in local revenue is estimated to be \$313,550 (\$545,928 - \$232,378). According to DOR, the increase in state revenue in FY14-15 is estimated to be \$208,855; the increase in local revenue in FY14-15 is estimated to be \$301,381.
- Under current law, three counties (Claiborne, Clay, and Morgan) do not have a business tax. Under this bill, businesses in these three counties will be required to obtain a business license and file annual returns. DOR estimates that 762 businesses will have gross sales of at least \$10,000 and projects, using the state rates, the total tax due for these businesses to be \$406,473, of which \$166,309 will be the state portion, representing a recurring increase in state revenue, and \$240,164 will be the local portion, representing a recurring increase in local revenue, beginning in FY15-16. The increase in state revenue in FY14-15 will be \$154,878; the increase in local revenue in FY14-15 will be \$230,843.
- The recurring increase in state revenue of \$500,000, beginning in FY15-16, from out-of-state businesses that will be subject to the tax under this bill. Such increase in state revenue is estimated to be \$375,000 in FY14-15.
- According to DOR, decreasing the business tax rate on gasoline and diesel fuel wholesalers from 0.000375 percent to 0.0003125 percent, will result in a recurring decrease in state revenue of \$449,653 and a recurring decrease in local revenue of \$634,914, beginning in FY14-15.
- Authorizing local governments to retain 100 percent of tax collections imposed on flea markets, antique malls, gun shows, and transient vendors, will result in a recurring decrease in state revenue of \$118,352, and a corresponding recurring increase in local revenue of \$118,352, beginning in FY14-15. The decrease in state revenue and a corresponding increase in local revenue in FY13-14 are estimated to be \$59,176.
- According to DOR, approximately 50,000 businesses annually file 81,181 business sales tax returns with sales less than \$10,000. These businesses are currently remitting the minimum business tax of \$22. As a result the total business tax revenue will decrease by \$1,785,982 (81,181 x \$22), beginning in FY15-16, of which \$504,854 will be the state portion, representing a recurring decrease in state revenue, and \$1,281,128 will be the local portion, representing a recurring decrease in local revenue. The decrease in state revenue in FY14-15 is estimated to be \$361,037; the decrease in local revenue in FY14-15 is estimated to be \$916,173.
- The recurring increase in local revenue, beginning in FY15-16, of \$1,217,715 from requiring the business with annual gross sales of less than \$10,000 to acquire a local minimal activity license fee of \$15 (81,181 x \$15). Such increase in local revenue is estimated to be \$870,825 in FY14-15.

- The total decrease in state revenue in FY13-14 as a result of this bill is estimated to be \$59,176.
- The total net decrease in state revenue in FY14-15 as a result of this bill is estimated to be \$190,309 (\$208,855 + \$154,878 + \$375,000 - \$449,653 - \$118,352 - \$361,037)
- The total net recurring decrease in state revenue, beginning in FY15-16, as a result of this bill is estimated to be \$182,281 (\$224,269 + \$166,309 + \$500,000 - \$449,653 - \$118,352 - \$504,854).
- The total increase in local revenue in FY13-14 as a result of this bill is estimated to be \$59,176.
- The total net decrease in local revenue in FY14-15 as a result of this bill is estimated to be \$29,686 (\$301,381 + \$230,843 - \$634,914 + \$118,352 - \$916,173 + \$870,825).
- The total net recurring decrease in local revenue, beginning in FY15-16, as a result of this bill is estimated to be \$26,261 (\$313,550 + \$240,164 - \$634,914 + \$118,352 - \$1,281,128 + \$1,217,715).

### **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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